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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/508,747	03/04/2005	Laurence Michael Byrne	DUMME56.001APC	8307

20995 7590 09/27/2007  
KNOBBE MARTENS OLSON & BEAR LLP  
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IRVINE, CA 92614

EXAMINER
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KEENAN, JAMES W

ART UNIT	PAPER NUMBER
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3652

NOTIFICATION DATE	DELIVERY MODE
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09/27/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
eOAPilot@kmob.com

## Office Action Summary

Application No.

10/508,747

Applicant(s)

BYRNE, LAURENCE MICHAEL

Examiner

James Keenan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

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1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

2. Claims 1 and 8 are objected to because of the following informalities:

In claim 1, line 7, a comma should be inserted before "wherein".

In claim 8, line 2, a comma should be inserted after "system".

Appropriate correction is required.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watson (US 4,145,824) in view of Longman (US 3,422,973), both previously cited.

Watson shows a material compacting vehicle including container 6 with front and rear ends, sides, roof, roof opening, and end closure means, material urging structure 8, and activating means 18, 19 for incrementally advancing and retracting the material urging structure (see col. 3, lines 32-41).

Watson discloses that the activating means could be either two arms acting along the sides of the container at the ends of the material urging structure or a single arm acting on the center. Watson also discloses an alternative activating means comprising a telescopic reciprocating ram 13 (col. 3, lines 20-26).

Watson does not, however, disclose reciprocating beams with thrust assemblies.

Longman shows a means of incrementally urging material from a vehicle comprising an urging structure 36 incrementally advanced and retracted by a reciprocating beam 42 provided with a plurality of equally spaced thrust assemblies 44 along the length thereof. While Longman shows a single centrally acting beam, it is reiterated that Watson teaches the equivalence of a central activating means and two outer activating means, as well as the equivalence of pivoting and reciprocating activating means.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Watson by utilizing reciprocating beams acting on the sides of the container on the ends of the urging means, and including equally spaced thrust assemblies along the length thereof, as suggested by Longman, as this would simply be an art recognized alternate equivalent means of incrementally urging material from a vehicle, the use of which in the apparatus of Watson would neither require undue experimentation nor produce unexpected results.

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5. Claims 2 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watson in view of Longman, as applied to claim 1 above, and further in view of De Filippi '796, previously cited.

Watson shows the container to have all elements of claim 2, as noted above, except a top opening cover.

De Filippi '796 shows a trash compacting vehicle having a top opening cover 20.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Watson by adding a top opening cover, as shown by De Filippi '796, to provide better weather protection for the components inside the container as well as preventing any loose material from blowing out of the container during transport (it being noted that Watson is alternatively disclosed for use with leaf or trash collection, col. 4, lines 47-52).

Re claim 5, the urging structure of Watson is clearly a close sliding fit within the container, and slides along the floor, as shown in fig. 3.

Re claims 6-7, note in Watson slot 14 through which the ends of axle 12 (lugs) extend to connect the material urging structure to the activating means.

6. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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7. Applicant's arguments with respect to claims 1-3 and 5-7 have been considered but are moot in view of the new ground(s) of rejection.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

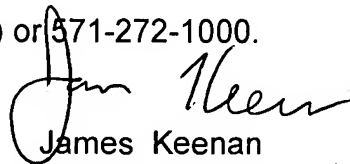
§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James Keenan  
Primary Examiner  
Art Unit 3652

jwk  
9/18/07